Before the Legislative Council
Septage Disposal Study Committee
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Comments of Paul G. Kent on behalf of
Municipal Environmental Group – Wastewater Division

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Chairman Ainsworth and Committee Members:

Introduction

My name is Paul Kent. I am an attorney specializing in water law issues and I appreciate the opportunity to speak to the Committee today about septage management on behalf of the Municipal Environmental Group-Wastewater Division. MEG is an organization of approximately 90 Wisconsin municipalities that own and operate wastewater treatment facilities in this state. Members range in size from some of the largest metropolitan operations to some of the smallest communities in rural areas in the state. MEG works to ensure that laws, rules and policies affecting wastewater treatment are scientifically sound and as cost-effective as possible. We view ourselves as partners with the state and private sector in ensuring that water quality is protected.

We understand the need for viable options for septage disposal. At the same time, municipalities need to ensure that septage is managed in way that protects its wastewater facilities. We have three areas of concern that we urge the Committee to keep in mind as it moves forward:

- The security of wastewater treatment systems
- The need for effective long term facility planning
- The ability to recover the actual costs of providing treatment services

1. Security of the Treatment System

Communities that run treatments plants have an obligation to run their plants in accordance with the terms of their discharge permits from the DNR. If they do not do so, they are subject to enforcement by the state, EPA and environmental organizations. They

must be able to protect their facilities from pollutants that could create non-compliance situations. Current law provides plants the authority to turn septage away if "treatment of the septage would cause the sewage system to ... violate any applicable effluent limitations or standards, water quality standards" or any other legal requirements. It is critical that this authority remain in place.

Fortunately, such situations are relatively rare, particularly with septage wastes. But some situations can create real problems. Let me give you some practical examples. One of our members reported a waste hauler had a load from a holding tank that was so high in volatile organic compounds that it actually set off alarms at the facility. Just like treatment plants have a responsibility to ensure that discharges from industries within their sewer service area do not create upsets at the plant, treatment plants must make sure that loads from haulers do not create problems with the plant.

In other cases, it may not be the load of waste that is a problem, but other issues may be occurring at the treatment plant. For example, there may be occasions where septage cannot be received because of an emergency (such as an equipment failure) at the treatment plant. There may also be seasonal restrictions on a facility. Many treatment plants are under greater stress in winter months and do not have as high a degree of treatment efficiency as in the summer. All of these circumstances require the treatment plant operator to be able to make case-by-case determinations as septage is received.

2. Planning and Long-Term Capacity

Current law is challenging because it involves the interface between a highly regulated public service – municipal sewage treatment facilities, and a private sector service – septage hauling. Not only are sewage treatment plant discharges subject to regulation through permits, treatment plants are also subject to facility planning requirements in accordance with detailed state regulations. As part of this process, the DNR reviews and approves facilities for a designated sewer service area. Indeed, DNR and EPA are currently requiring municipal facilities statewide to engage in additional planning and investment on their sewage collection systems. This is in addition to new requirements for stormwater management and treatment plant capacity. By contrast, septage hauling is not bound to any of these sewer service area requirements. While current law requires treatment plants to accept septage, it does not require septage haulers to bring septage to a particular facility.

The result is that communities can incur the costs for infrastructure and additional plant capacity related to accepting septage, but then have no guarantees they will be able to recoup those costs through septage charges. One member recently invested in upgrades related to a septage receiving station and attempted to attribute those costs to the septage haulers. Once the rates increased, the septage haulers went elsewhere. Another municipality receiving nearly one million gallons of septage a year increased its rates to better reflect costs as a result of a DNR audit. Once the charges began to reflect actual costs, septage delivery to the facility dropped by an order of magnitude. And if

municipalities cannot recover those costs from the septage haulers, then the municipal customers are left to subsidize the facilities for persons in unsewered areas.

We also have some plants that are nearing capacity at the end of their planning periods. Should such communities be forced to give up service to new residents within their own sewer service area to allow for septage from outside of its service area? The bottom line is that long-term planning must be based on tangible expectations for both septage and sewered customers. Treatment plants cannot be asked to take on additional responsibilities to receive septage unless there are concomitant responsibilities on septage haulers to use those facilities and abide by the rules required of treatment plants by DNR and EPA.

3. Economics and Cost Recovery

The simple fact is that treatment of septage, just like the treatment of sewage, is not free. Municipalities must be able to monitor and control the inputs to their system so they can insure that the effluent will meet state standards. Septage receiving stations, monitoring and sampling, and treatment capacity come with a cost. Municipalities need the ability to recover those costs from the persons who generate such costs. Moreover, if state law places a heavier burden on treatment plants to justify refusal of septage, it will require the municipalities to undertake more tests. Those costs must also be covered.

Artificial limits on cost recovery are simply unworkable. A statewide, one-size-fits-all rate requirement does not take into account individual system characteristics. For example, larger plants may have greater scales of economy than smaller systems. Systems with a larger percentage of septage waste may require different cost structures than systems with smaller percentages of septage. Moreover, if costs are disproportionately placed on municipal customers for septage services, treatment plant utilities could be the subject of complaint to the Public Service Commission. Municipalities must be able to set costs based on standard accounting cost recovery principles.

Conclusion

Municipal treatment facilities are willing to continue to be partners in the wastewater treatment business with the state and private sector. But effective wastewater management requires coordinated planning, effective facilities management and equitable cost recovery. The interface between these public systems and private waste haulers present challenging questions that require thoughtful solutions. We look forward to working with you as this committee process moves forward.

Thank you for the opportunity to present this information today, and please feel free to contact myself, Wally Thom, or your local municipal wastewater system administrator at any time with questions.